United States
Department of
Agriculture

Forest
Service

February 2008

Appendix B

Forest Service Response to 2007 30-Day Public Comments

South Branch Kinzua Creek Environmental Assessment

Marienville Ranger District
Allegheny National Forest

Wetmore and Hamlin Townships
McKean County, Pennsylvania

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Because the comments received for the Public Comment Package were in response to the proposed activities within the South Branch Kinzua Creek (SBKC) project area which, at that time, were based on 1986 Forest Plan management, a decision was made to provide a second 30-day comment period in order to seek responses pertaining to the proposed activities in the SBKC project area based on 2007 Forest Plan management.

The second 30-day comment period for this project ended November 26, 2007. Comments were received by regular mail and electronic mail (e-mail) from fifty (50) respondents. Of these, 46 were form letters and two of the form letters included additional comments (Sachau and Smeltz). One comment letter was received after the deadline for the 30-day comment period (Pennsylvania Fish & Boat Commission). The following is a list of the individuals/organizations which provided comments:

Table 1. Respondent and Corresponding Numbers of Comment Letters.

Comment #	Respondent
1	Ryan Talbott (Allegheny Defense Project)
2	Andy Mahler & Linda Lee
3	Allen G. Smeltz
4	Unknown respondent (only e-mail address given)
5	Barbara Sachau
6	Tom Shervinskie (Pennsylvanai Fish & Boat Commission)

Comment 1-A:

The Forest Service claims: "there is a need to maintain a diversity of age classes, including early age classes spatially distributed across the landscape in MA 3.0 within the SBKC project area. As existing young classes develop and mature into older age classes, there is a need to maintain a young age class component into the next decade."

The Forest Service fails to demonstrate this need. The South Branch Kinzua Creek project area does not exist in a vacuum. Abundant forestland in the "young age class component" exists across the Allegheny National Forest region, particularly when you consider private lands.

Forest Service Response: *The Forest Service analyzed the area within and in close proximity to the South Branch of Kinzua Creek project area. Information provided in the South Branch Kinzua Creek Vegetation Report shows both the present age class distribution and the future age class distribution for each alternative (SBKC Vegetation Report, p. 14 and pp. 55 - 70). The Forest Plan sets objectives for age class distribution by management area, see USDA-FS, 2007a, p113. Also, by maintaining a mosaic of age classes across the project area, the Forest Service is helping to maintain forest health (USDA-FS, 2007b, p. 3-93).*

Comment 1-B:

In the "Natural Disturbance Patterns in the Allegheny Hardwood Forest Region" section of the EA, the Forest Service states: "the overall effect of these natural disturbances was

to maintain, to some extent, a spatially variable and complex mosaic of different forest types and stand ages. Recent research conducted on the ANF suggests that the intensity and frequency of such disturbances varied across landscape gradients (Ruffner and Abrams 2003). Compared to more protected riparian and bottomland sites, uplands and side slopes experience more frequent, intense, and larger scale disturbances (particularly from windstorms) that promoted a patchy and irregular landscape structure composed of multiple cohorts. These factors also promoted the development and persistence of stands dominated by species such as beech, black cherry, red maple, and birch on upland sites, while lower-intensity disturbance regimes favored dominance of forest communities by eastern hemlock."(SBKC EA, p. 49)(emphasis added)

There are a couple issues here. First, it is clear from the natural disturbance regime that exists in the Allegheny National Forest, the so-called "need" for this project is suspect. There is no need for the Forest Service to provide a "young age class component" (aka, even-age management) when "natural disturbances…maintain…a spatially variable and complex mosaic of different forest types and stand ages." The Forest Service's use of the qualifier "to some extent" is suspect too as it appears to be an effort to downplay the role of natural disturbances in order to justify the Forest Service's desire to create more "young age class component" than is natural.

***Forest Service Response**: Natural disturbances occur in a spatially variable pattern. These stands do not always regenerate successfully due to interfering vegetation that dominates the site and does not allow seedlings enough sunlight to develop. Planned regeneration treatments with associated reforestation lead to more successful outcomes (USDA-FS, 2007b, pp. 3-94, 3-127 & 128) than natural disturbances.*

Comment 1-C:

Second, the Forest Service includes black cherry in its list of species that were historically promoted by natural disturbance on upland sites. This is specious, at best. According to early survey records in the Allegheny National Forest region, black cherry was less than 1% of the forest overstory.[1] While black cherry would be promoted in the short-term providing there was a seed source, over time black cherry is shaded out through natural succession. The other species the Forest Service mentioned (beech, red maple, and birch) were more prevalent historically than black cherry. Yet the Forest Service, in an obvious effort to make it appear more naturally abundant, erroneously includes black cherry, a shade-intolerant species, with two shade-tolerant species (beech and birch) and one habitat generalist (red maple) in a list of species that are promoted from natural disturbances. This misleads the public into believing black cherry was historically more abundant than it really was.

[1] Whitney, G.G. "The History and Status of the Hemlock-Hardwood Forests of the Allegheny Plateau." Journal of Ecology (1990). 78, 443-458.

***Forest Service Response**: Black cherry is a shade intolerant tree meaning that it grows best when exposed to full sunlight. A natural disturbance such as a stand replacement event in which the overstory is blown down would provide full sunlight conditions. Thus black cherry seedlings would out-compete slower growing trees in their growth towards sunlight (Burns & Honkala, 1990): Silvics Manual, Volume 2: Hardwoods, Prunus serotina). So, natural disturbances did promote black cherry, but only for a short time*

since black cherry is a relatively short-lived tree as compared to beech, sugar maple and hemlock. These trees would continue to survive while the short lived black cherry would succumb to old age.

Comment 1-D:

The Forest Service next claims: "there is a need to maintain or enhance seedling, shrub, and herbaceous diversity in the SBKC project area where a legacy of selective browsing by deer has resulted in reduced understory diversity."

The Forest Service, however, has acknowledged that "across the Allegheny NF, the deer herd is at goal and the habitat is beginning to recover."[2]

Additionally, the EA states on page 51: "pellet group counts conducted within the project area in 2004 and 2005 suggest an average overwintering deer density of about 15 deer per square mile. This is within ANF LRMP goals of 10-20 deer per square mile. This is demonstrated by the increasing numbers of wildflowers within the project area." (emphasis added)

Much of the Forest Service's logging prescriptions were supposedly developed to respond to overbrowsing by deer. For instance, according to Horsely and Marquis (1982), "Estimates of the impact of deer on the success of regeneration suggest that deer browsing is directly responsible for more than 85% of the regeneration failures (Marquis 1981)."[3]

Additionally, Horsely and Marquis stated: "in the present situation in Pennsylvania, browsing by the excessively large deer herd often results in a 'climax' of self-perpetuating fern and grass when these species are present in great abundance before the removal cut. In this situation, removal cutting should be deferred until action can be taken to reduce or remove the fern or grass cover (Horsely 1981), and adequate numbers of advance seedlings are present (Marquis, et al. 1975)."[4]

Now that deer populations are "at goal and the habitat is beginning to recover," the Forest Service cannot rely on the same management prescriptions that were developed to respond to a forest with a high deer density. The facts on the ground have changed and the Forest Service must recognize this. The whole point of the Forest Service's even-aged management regime in the Allegheny is to promote enough advanced regeneration of desirable species to grow rapidly enough to get above deer browsing height. Now that deer densities have been reduced, this regime is unnecessary, particularly when the Forest Service in the EA for this project discloses that there are "increasing numbers of wildflowers within the project area."[5]

[2] http://www.fs.fed.us/r9/forests/allegheny/news/2007/1181797200-1181927083-14-Jun-2007.php

[3] Horsely, S.B. and Marquis, D.A. "Interference by weeds and deer with Allegheny hardwood reproduction." USDAFS Northeastern Forest Experiment Station, Warren, PA. 1982.

[4] *Id.*

[5] It should be noted that we have always felt that the Forest Service emphasized the impact of deer while ignoring or downplaying other factors that contributed to a lack of regeneration. While we still hold these beliefs, we cannot ignore the Forest Service's own research that resulted in developing an even-aged management regime that has been in use for decades to supposedly combat the high deer densities on the Allegheny National Forest as well as the necessity and validity of such a regime now that deer densities have been reduced.

Forest Service Response: *Currently the deer herd in the project area is estimated to be at Forest Plan goal of 15 deer per square mile. This is an average; areas may contain more or less deer per square mile. Deer are also selective browsers and will browse a variety of tree species that meet their needs. There will be lag time for the understory to recover due the condition created by the interfering vegetation, see USDA-FS, 2007b. pp. 3-94 & 95. Please see the Decision Notice and Finding of No Significant Impact for further clarification pertaining to this topic.*

Comment 1-E:

Next, the Forest Service claims: "there is a need to provide for mature forest conditions and wildlife habitat in MA 2.2 and late successional habitat as part of the forest-wide landscape approach to providing late-successional habitat."

The Forest Service plans to log 96 acres to "accelerate mature forest conditions" (AMFC) and 243 acres to "restore understory mature forest conditions" (RUMFC). Much of this type of logging is proposed in MA 2.2 to achieve the stated objective above. The Forest Service cites Franklin and Van Pelt to justify its AMFC logging proposals.[6] Franklin and Van Pelt's research, however, does not discuss anthropogenic disturbances in the development of mature and/or old-growth forest conditions. Their focus in the cited research is on the development and maintenance of mature and old-growth forest conditions through natural disturbance regimes. Nowhere do they prescribe logging practices for the promotion of mature and/or old-growth forests.

[6] Franklin, J. F. and R. Van Pelt. 2004. "Spatial aspects of structural complexity in old-growth forests." Journal of Forestry, Vol. 102, No. 3, pp. 22-28.

Forest Service Response: *We concur that Franklin and Van Pelt (2004, pp 22-28) describe the conditions present in mature forests over an extended period of time through natural disturbance regimes. However, several other references cited in the ANF Forest Plan do acknowledge the benefits that carefully planned active management can provide.*

AMFC and RUMFC treatments proposed in the SBKC Project Area are based on and consistent with ANF Forest Plan standards and guidelines (2007a, p 111) and are designed to achieve site-specific resource management objectives (2007a, p A-18). The ANF Forest Plan calls for carefully prescribed active management in some Management Areas in order to restore certain of these old-growth characteristics more quickly than would occur through a passive approach. The ANF Forest Plan also recognizes that a number of other individuals and agencies are recommending similar types of treatments, and Forest Plan recommendations are based on a careful review of a variety of published information (2007a, pp A-26 to 28, A-38; 2007b, p 3-143). In addition, both AMFC and RUMFC treatments have been implemented through adaptive management in selected areas of the ANF since FY 2000 with good results. An ANF monitoring review in FY 2004 and an informal field review as part of a local meeting between The Nature Conservancy and Kane Hardwoods in FY 2007 indicate the treatments are moving the areas toward desired conditions.

*More recently, the University of Massachusetts Extension and The Nature Conservancy released a guide in 2007 entitled "Restoring Old-Growth Characteristics" (*D'Amato & Catanzaro) *that recommends active timber management as an appropriate means to*

provide for these conditions in the near future instead of waiting for natural processes to develop these conditions over the next several hundred years.

The effects of AMFC and RUMFC treatments are covered in detail in the Forest Plan FEIS (2007b, p. 3-114, 3-140 to 144, 3-147, and 3-151 to 154). Additional discussion regarding AMFC and RUMFC treatments can be found in responses to public comments in Forest Plan FEIS, Appendix A (2007h, Public Interest # 219 and # 222, pp A-132 to 136; Public Interest # 228, # 232, and # 233, pp A-139 to 142).

Comment 1-F:

The Forest Service in the Allegheny has developed the phrases "accelerate mature forest conditions" and "restore understory mature forest conditions" without the benefit of peer review or supporting research. In fact, a Google search for the phrase "accelerate mature forest conditions" returns a mere two results, both of which links to the Allegheny National Forest website.[7] The first result is documents associated with the recent forest plan revision. The second result is documents related to this project. Similarly, a Google search for the phrase "restore understory mature forest conditions" returns just two results, both of which, again, links only to the Allegheny National Forest website.[8] This hardly represents a solid scientific basis for logging to "accelerate mature forest conditions" or to "restore understory mature forest conditions."

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http://www.google.com/search?hl=en&client=safari&rls=en&q=%22accelerate+mature+forest+conditions%22&btnG=Search

8

http://www.google.com/search?hl=en&client=safari&rls=en&q=%22restore+understory+mature+forest+conditions%22&btnG=Search

Forest Service Response: *Several independent researchers (2007b, pp. 3-114 to 117 and 3-143; 2007a, A-26 to 28; SBKC EA, p. 59) have, through their own work, described conditions present in late structural forests and have recommended active management as a means of achieving these characteristics over a shorter period of time than it would take through passive management.*

ANF silviculturists and biologists have identified treatments that will help develop these conditions. Since consistent or concise terminology is not available for these treatments in the literature, we have assigned local names for them (AMFC – Accelerated Mature Forest Conditions and RUMFC – Restore Understory Mature Forest Conditions) so that the public can better understand their purpose and can refer to them in concise fashion. ANF personnel will be happy to adopt nationally or regionally accepted terminology when it becomes available.

For additional information, see the response to comment 1-E.

Comment 1-G:

Regarding logging to AMFC, the Forest Service provides no reasoning why this logging is necessary as "a surrogate for competition-induced mortality" when competition itself provides this kind of natural disturbance. There is no need for an anthropogenic-induced surrogate for what is naturally provided over time. This is particularly so when the

research the Forest Service cites in the EA does not actually prescribe logging to act as a surrogate for competition-induced mortality.

Forest Service Response: *The ANF Forest Plan (2007a) and FEIS (2007b) contain several references to the reasons for conducting AMFC treatments and the expected environmental consequences. Equally important is the ANF Forest Plan FEIS discussion describing the anticipated effects of passive management (2007b, pp 3-164 to 166, 3-169, 3-173, and 3-174).*

Thinning to Accelerate Mature Forest Conditions (AMFC) is variable density thinning. This treatment is designed to accelerate development of mature forest conditions, such as larger trees and variable tree density. This type of treatment and these types of conditions are described by several researchers (2007a, Appendix A, pp. A-26 & 27). This treatment would reduce canopy density and competition between trees, resulting in more rapid development of larger diameter trees with enlarged crowns than would occur naturally over time. Providing mature forest conditions is the goal of the treatment, secondary benefits are that the trees will have improved health and vigor as a result of the thinning and be more resilient to insect and disease attacks, while the larger crowns will produce more mast for wildlife consumption (2007a, Appendix A, pp. A-26 & 27; 2007b, pp. 3-109, 3-114, 3-143, 3-147, and 3-152).

Comment 1-H:

There are two unroaded areas (UA) totaling 1,273 acres overlapping the project area that were identified in the North End Roads Analysis.[9] Unroaded Area #44 contains 203 acres within the SBKC project area while UA #63 contains 44 acres in the project area. According to the North End Roads Analysis, UA #44 received maximum ratings for the lack of human development (rights-of-way, trails, or unclassified roads), complex vertical structure and diverse vegetation composition in combination with unique habitats such as raptor nesting areas, high value wetlands, and deer and turkey wintering areas, and documented occupied habitat by Threatened, Endangered, and Sensitive species that are known to be sensitive to human disturbance. UA #63 also received maximum ratings for the lack of human development and unique habitat.

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http://www.fs.fed.us/r9/forests/allegheny/projects/analysis/northend_roads_analysis/060310_NERAP_Final.pdf

Forest Service Response*: "Unroaded areas" is a term and definition that is no longer applicable. It was originally described in Interim Directive 7710-2001-1 and 7710-2001-2. The direction to address road management activities in inventoried roadless and contiguous unroaded areas was removed from the Forest Service Directive System by Amendment Number 7700-2300-2, effective December 16, 2003, which superseded both ID 7700-2001-1 and 7710-2001-2. The Forest Service Manual no longer includes Chapter 7712.16 through 7712.16d, which described "contiguous unroaded areas".*

As an aside, if the Forest Service still considered management of roads within a contiguous unroaded area, FSM 7712.16, if still in use, would have required that the area be 1,000 acres or more in size. Unroaded areas were analyzed on pp. 65, 96, 97, 116, 117, 124, 125, and 127 of the EA.

There is no road construction, reconstruction, or maintenance in either unroaded area described in the comment. One RUMFC treatment will occur in unroaded area #44, involving part of a 20 acre stand. Three acres of planting will occur in unroaded area #44 and 10 acres of reforestation treatments will occur in unroaded area #63. All treatments are consistent with LRMP vegetation management objectives.

Comment 1-I:

"the unroaded areas are located in a portion of the South Branch Kinzua Creek watershed designated as a State Wilderness Trout Stream. A trout stream and the surrounding area receives this designation by the State because it is at least two miles in length and has no more than one public access point (by vehicle) every two miles, nor is there an open road paralleling the stream within mile. The ANF recognizes and attempts to maintain state designations such as wilderness trout streams in the Forest Plan (as amended) and during the development of forest management projects. Recognizing and maintaining these two URA's would help to provide or preserve the state wilderness status that presently exists."[10] (emphasis added)

Wilderness Trout Stream management: "is based upon the provision of a wild trout fishing experience in a remote, natural and unspoiled environment where man's disruptive activities are minimized. Established in 1969, this option was designed to protect and promote native (brook trout) fisheries, the ecological requirements necessary for natural reproduction of trout and wilderness aesthetics. The superior quality of these watersheds is considered an important part of the overall angling experience on wilderness trout streams. Therefore, all stream sections included in this program qualify for the Exceptional Value (EV) special protected water use classification, which represents the highest protection status provided by the Department of Environmental Protection (DEP)."[11]

The Forest Service mischaracterizes Pennsylvania's definition for Wilderness Trout Stream management in the EA. For instance, the Forest Service claims that all streams, including Wilderness Trout Streams, "should be managed in a way that maintains and/or propagates fish species as well as flora and fauna, which are indigenous to a cold-water habitat." This does not accurately reflect the state's definition. Clearly, logging nearly 3,000 acres within this watershed (i.e., the "surrounding area") is contrary to the principles of Wilderness Trout Stream management as it fails to promote a "wild trout fishing experience in a remote, natural and unspoiled environment where man's disruptive activities are minimized." This project is also likely to affect the "ecological requirements necessary for natural reproduction of trout and wilderness aesthetics."

[10] *Id*. at 24-25.

[11] http://www.fish.state.pa.us/wild98.htm

Forest Service Response: *The ANF strives to meet the intent of various State designations and criteria set forth to protect waters of the Commonwealth. Concerning the comment made about the Forest Services claim that all streams, including Wilderness Trout Streams (WTS), "should be managed in a way that maintains and/or propogates fish species as well as flora and fauna, which are indigenous to a cold-water habitat" does not accurately reflect the state's definition, is incorrect. This statement is in fact taken from the State, specifically from the Pennsylvania Code, Title 25 Environmental*

Protection, Chapter 93, Water Quality Standards, page 93-7, Table 1, under Protected Uses for Cold Water Fishes, or CWF (PA DEP 2001). The High Quality, or HQ, portion of the designation is further defined in section 93.4b beginning on page 93-11. This section of the South Branch Kinzua Creek has not yet been designated an Exceptional Value water, or EV, as defined on page 93-13 under section 93.4b (PA DEP 2001). The DEP's website continues to define the Protected Water use as HQ-CWF.

As a point of clarification, in the comment above, a road paralleling a WTS should be at least ¼ mile from the stream when the stream is two miles or longer (which the South Branch Kinzua Creek is), not one mile away. The Forest Service has not built any roads that violate the WTS criteria nor does it propose to build any in this project area that would violate this criteria.

There is approximately 2,234 acres of commercial silvicultural treatments (affected area) and accompanying reforestation treatments and 633 non-commercial treatments. These will occur over a number of years. The designation of a Wilderness Trout Stream is a mutual agreement (not a regulatory category) between the landowner(s) and the PA Fish and Boat Commission and recognizes that the harvesting of timber in the watershed is a consistent use so long as potential effects are eliminated or reduced. To accomplish this during timber harvesting operations, the Forest Plan contains standards and guidelines that are consistent with State Best Management Practices and that will be implemented to protect water resources in the area and the ecological requirements necessary for natural reproduction of trout.

Comment 1-J:

It is important to remember that it is not only the trout stream corridor, but also the "surrounding area" as pointed out in the North End Roads Analysis that must be managed according to Wilderness Trout Stream principles. The intensity of this proposal (the acres of logging relative to the project area) requires the Forest Service to prepare an EIS, particularly given the fact that there are two UA's overlapping the project area and a Wilderness Trout Stream. Even if the Forest Service's proposal does not directly affect the UA's and restricts activities within 200 feet of South Branch Kinzua Creek, the remainder of the project is certainly going to affect the overall atmosphere and experience that is protected by the State.[12]

The North End Roads Analysis supports our concerns. On page 25 of the North End Roads Analysis, the Forest Service states: "Additional road building into the two URA's would have negative effects on the visual character of the areas and adversely affect the state's designation of the wilderness trout stream."

If the Forest Service felt a little over a year ago that the construction of new roads in the two URA's would "adversely affect the state's designation of the wilderness trout stream," it is reasonable to conclude that logging nearly 3,000 acres and spraying nearly 1,000 acres with herbicides would adversely affect the state's designation of the wilderness trout stream. A 200 feet buffer is not sufficient to protect this Wilderness Trout Stream.

[12] We support the decommissioning of FR 463B. The Forest Service should file a timely objection to any proposed oil and/or gas well that would threaten UA #63 or #44 under the PA Oil and Gas Act.

Forest Service Response*: As stated in the response to Comment # 1-J, the WTS program is not a regulatory category, and thus does not afford any legal protection criteria, but rather is a mutual agreement between the landowner(s) and the PFBC and the implementation of consistent uses only. Timber management activities, as stated in the Wilderness Trout Stream program (PFBC 1969), are a consistent use but does not go into detail about the level of activity that is or isn't appropriate. The logging activities would result in short-term disturbances to the watershed while operations are occurring, but these will be away from the fishable portions of the South Branch Kinzua Creek.*

The 200 foot buffer is a minimum, and is a width that was included in the Forest Plan based on an evaluation of State BMP's for this stream designation. This width was acquired from PA Department of Conservation and Natural Resources State Forest Resource Management Plan of 2003. The actual buffers or design features related to the WTS are heavy equipment (related to harvest and herbicide) type buffers. See page 116 of the EA. These vary slightly by alternative as a couple of the treatments drop out in Alternative 3.

Comment 1-K:
MA 2.2 replaced many areas that were designated as MA 6.1 under the 1986 forest plan. According to the North End Roads Analysis, " the quality and integrity of the two URAs [#44 and #63 in the SBKC Project] are further enhanced since they lie within approximately 1,872 acres of MA 6.1…timber management is not anticipated in this management area during the next decade."

MA 2.2 replaced MA 6.1 in this area. It is certainly troubling that barely a year after the Forest Service stated in the North End Roads Analysis that no timber management was anticipated in this management area, it proposes approximately 300 acres of logging in MA 2.2. It raises serious concerns not only about the current proposal but also the quality of analysis that is occurring in the various roads analysis projects.

Forest Service Response*: The North End Roads Analysis Project Report, completed in March, 2006, "is a 'living' document and reflects the conditions of the analysis area at the time of writing." (p. 6, USDA-FS. 2006). The ANF LRMP (USDA-FS, 2007a), completed in March, 2007, resulted in changes to Management Area (MA) 6.1 and 2.2, respectively. MA 2.2 in the Revised Forest Plan has different goals and objectives than MA 6.1 under the 1986 Forest Plan. The North End RAP was completed using the best data available at the time; no management area changes were decided on at that time.*

Comment 1-L:
Alternative 3, with its additional "mitigations" fails to adequately protect the Wilderness Trout Stream designation, primarily due to the Forest Service's erroneous interpretation of the State's definition. At the very least, the intensity of this project within a watershed containing a Wilderness Trout Stream requires the preparation of an EIS.

Forest Service Response*: Please see response to Comment # 1-I.*

Comment 1-M:
Oil and gas drilling continues at record levels within the Allegheny National Forest. The Forest Service has admitted that it is not staffed to deal with the dramatic increase in oil

and gas drilling. The Forest Service also considers oil and gas drilling to pose the most significant land use change in the Allegheny. The Forest Service has a non-discretionary duty to protect the surface resources of the Allegheny. Quite simply, the Forest Service should use the time and resources that it is spending on projects such as South Branch Kinzua Creek on the oil and gas-drilling situation.

The Forest Service should file an objection to any proposed oil and/or gas wells within the South Branch Kinzua Creek project area.

Forest Service Response*: This comment is beyond the scope of the SBKC project.*

Comment 1-N:

This proposal threatens the area surrounding a Wilderness Trout Stream. The Forest Service continues to increase the impacts on recreation enthusiasts that enjoy primitive and non-motorized recreation experiences. The Forest Service stated in the recent Forest Plan FEIS that recreationists may want to go to other state or national forests for remote recreation experiences because of oil and gas drilling.[13] Instead of off-setting the impacts of oil and gas drilling, the Forest Service is proposing to exacerbate those impacts by opening up more land to fragmentation from logging and road construction.

[13] USDA-FS, Forest Plan FEIS, p. 3-327. 2007.

Forest Service Response*: Please see response to Comment 1-J.*

Comment 1-O:

Regarding the local and regional economy, the Forest Service contends: "there is a need to provide a mix of vegetative conditions and quality timber products that contribute to the local and regional economy."

The Forest Service continues: "Demand for sawtimber from Allegheny hardwood species remains moderately strong (USDA-FS 2007b, p. 3-387), based on open market prices in the region and the number of bids on past ANF sales." The cited section of the forest plan FEIS, however, clearly states: "There are no data that specifically address the current demand for timber originating from lands in Pennsylvania."[14]

It is hard to imagine that if there are no data addressing the current demand for timber originating from all of Pennsylvania's forestlands, that the Forest Service can reasonably make the assumption that there is a specific "need" for timber originating from the Allegheny National Forest. Asside from that, however, is the Forest Service's notion that just because a particular demand exists, it assumes it is the responsibility to meet that demand, regardless of the private sector's ability to meet that demand. There is also a need to protect wildlife habitat in the Allegheny as a result of rampant oil and gas drilling, but, not surprisingly, the Forest Service is not proposing projects to address that need. Instead, the Forest Service proposes projects that will further exacerbate the impacts to wildlife habitat through increased fragmentation.

[14] *Id*. at 3-387.

Forest Service Response*: As this comment is similar to Comment #7-E found in Appendix A of the SBKC EA, please refer to page A-6 of that document for the initial*

Forest Service response. In addition, the full context of the paragraph from the Forest Plan FEIS (USDA-FS, 2007b, p. 3-387) is included here:

"There are no data that specifically address the current demand for timber originating from lands in Pennsylvania. Strauss et al (2000) completed an assessment of the economic impact of Pennsylvania's hardwood industry, pointing out that the sawmill sector plays the pivotal role in the industry, and the key limiting factor on the sawmill sector is the availability of timber (pp 51 & 52). There is a strong demand for ANF timber stumpage based on recent price trends and the extremely low level of "no-bid" timber sales on the ANF. Since 1986 (using price as an indicator), demand for ANF timber has increased dramatically, with the average real price (i.e., inflation has been removed) for black cherry and total sawtimber increasing more than 400 percent (Figure 3-17). The increase in total sawtimber values is driven primarily by the high value assigned to quality black cherry from the ANF. In conclusion, there is no indication of any need to change the 1986 Forest Plan's conclusion that the demand for ANF hardwood sawtimber exceeds supply."

Comment 1-P:

The Forest Service's cumulative effects analysis is wholly inadequate. For instance, the EA states, "A small increase in non-forest habitat could occur if the OGM development continues at its current trend. These numbers are considered the maximum based on the average future projection of the high quarter and historic trends (USDA-FS 2007b, pp 2-59 to 60)."

As stated, these numbers are based on the "average future projection of the high quarter and historic trends." The Forest Service cites the recent forest plan revision FEIS as the basis for these figures.

These figures, however, are virtually worthless as the current rate of oil and gas drilling has dramatically exceeded the Forest Service's predictions in the forest plan FEIS. For instance, the "average future projection" estimated 512 new wells per year. In 2006, 985 wells were drilled, a 52% increase over the Forest Service's projections. The Forest Service is now estimating that approximately 2,000 new wells will be drilled by the end of 2007, a 256% increase over the Forest Service's projections. Even using the Forest Service's "high-quarter scenario" of 800 new wells per year, the simple fact is that oil and gas drilling has greatly exceeded the predictions in the forest plan
and it is not an accurate basis for which to analyze the cumulative effects in the South Branch Kinzua Creek project.

Forest Service Response:

The rationale for using the average future development scenario is cited in the Forest Plan FEIS (USDA-FS 2007b, p. 2-59). The energy market will continue to be cyclic as it has been in the past, but clearly respond to higher demands developed over the past two years. It should be noted that not all areas of the South Branch Kinzua Creek project area and CE area regarding wildlife habitat would have development at that level (See SBKC EA pp. 120-121). Also, regarding wildlife habitat, this level of development has not been realized within the SBKC CE area, regarding wildlife habitat, in the last four years (See SBKC EA p. 122). Because the location and the amount of wells drilled for

any given area may be unknown and is somewhat speculative, this scenario is adequate for analyzing the cumulative effects for wildlife habitat in this project at this time.

The number of wells drilled in the ANF annually is cyclic and is driven by the price of oil and natural gas on the local and regional markets. Further rationale for how OGM is analyzed in the Forest Plan is available in Appendix F to LRMP FEIS pages F1 to F12. On page F-9, the rationale for using the average future development scenario is further defined. Also, please refer to Table 30 in the Errata.

Comment 1-Q:
Additionally, there is no analysis of the cumulative effects relative to previous projects implemented in the vicinity. For instance, parts of the East Side Project abut the South Branch Kinzua Creek project area. There is no discussion of this or other projects and their respective cumulative effects in the EA. In *Curry v. U.S. Forest Service*, the court ruled that the failure to consider the cumulative effects of previous projects within the project area in association with other factors as will be discussed in greater detail below, violated NEPA.[15]

[15] 988 F. Supp. 541, 552-553 (W.D. Pa. 1997)

Forest Service Response: *The East Side project is referred to on pages 93, 94, 120, 121, 124, 138, and 139 of the SBKC EA. The cumulative effects analysis for vegetation is on pp. 101-105. The cumulative effects area for vegetation is the South Branch Kinzua Creek project area. The selection of the cumulative effects boundary for vegetation was made based on the assumption that enlarging the geographic scope to include National Forest System lands outside the cumulative vegetation effects (CVE) analysis area could dilute the potential cumulative effects because adjoining areas have similar (MA 3.0) or less management intensity levels (MA 2.2 and private lands) than those lands within the CVE area. No East Side treatments are located within the SBKC project area (CVE analysis area).*

Comment 1-R:
in Comment #7-A of 2006 Response to Comments
The Forest Service claims, "this proposal is not one that requires preparation of an EIS (FSH 1909.15, Chapter 30)."

The Forest Service has prejudiced the outcome of its decision with this comment. The purpose of the EA is to determine if an EIS is necessary. If so, the Forest Service prepares an EIS. If not, the Forest Service issues a Finding of No Significant Impact (FONSI). In this case, however, the Forest Service has stated before the conclusion of the EA process that "this proposal is not one that requires preparation of an EIS." Without the issuance of a FONSI, this statement has prejudiced the environmental analysis and is contrary to the agency's NEPA procedures.

Forest Service Response*: The intent of the above sentence was meant to explain that the proposal itself does not require preparation of an EIS. The reference we cited (FSH 1909.15, Chapter 30) should have been cited as FSH 1909.15, Chapter 20.*

As stated in response to comment 7-A in Appendix A of the SBKC EA, the purpose of an environmental assessment is to consider and disclose environmental impacts that will

help the responsible official in determining whether to prepare an EIS or to issue a finding of no significant impact.

Comment 1-S:
in Comment #7-F of 2006 Response to Comments
The Forest Service responded to this comment by stating:

"[PFBC] criteria for Wilderness Trout Streams do not restrict vegetation management within Wilderness Trout Stream (WTS) watersheds." There is considerable distance between "not restrict[ing] vegetation management with WTS watersheds" and proposing to log over 2,000 acres within a WTS watershed. The Forest Service's response underscores its lack of concern for protecting one of the Allegheny National Forest's only Wilderness Trout Streams.

***Forest Service Response**: Please see response to Comment # 1-J.*

Comment 1-T:
The Forest Service must prepare an EIS for this project. In *Curry v. U.S. Forest Service*, the Court ruled that the Forest Service violated NEPA by failing to prepare an EIS. Specifically, "the court agrees with plaintiffs that the magnitude of even-aged management as the predominant management technique undermine defendants' determination that the project will not have a significant impact on the human environment. The project involves in excess of 5,000 acres of the Allegheny National Forest of which 4,775 have been designated for even-aged management techniques." [16]

In South Branch Kinzua Creek, the Forest Service plans "treatments" on 2,867 acres of forest land. 2,234 acres are proposed for commercial logging and 633 acres are proposed for "non-commercial treatments." Of the proposed commercial logging acreage, 1,640 acres, or 73%, are even-aged management. While this acreage or percentage of even-aged management relative to the overall project is not as high as it was in the Mortality II timber sale, the Forest Service must still prepare an EIS because of the intensity of this project.

Returning to *Curry*, the court stated: "while the presence of an 'intensity' factor alone does not mandate that an EIS be prepared for a particular project, the court is compelled to conclude that, based on the number of 'intensity' factors implicated by the Mortality II Project, as well as the magnitude of the project, plaintiffs have raised 'substantial questions' regarding the issue of whether the Mortality II Project 'may' have a significant effect on the human environment." [17]

The same applies here. The combination of the magnitude and the number of intensity factors requires the Forest Service to prepare an EIS. First, as stated, while this project is not as large as Mortality II, it is still much larger than both of the projects the Forest Service used in its defense to justify its decision not to prepare an EIS in that case. The court in *Curry* clearly was not persuaded.[18]

Additionally, regarding intensity, the South Branch Kinzua Creek project area is 4,774 acres with commercial logging proposals totaling 2,234 acres, or about 47% of the project area. Of the proposed commercial logging proposals, 73% are even-aged

management. The project area contains one of the only Wilderness Trout Streams in the Allegheny National Forest, South Branch Kinzua Creek, which is also a High Quality-Cold Water Fishery. There are parts of two unroaded areas within the project area that the Forest Service analyzed in a previous roads analysis has having maximum ratings for the lack of human development (rights-of-way, trails, or unclassified roads), complex vertical structure and diverse vegetation composition in combination with unique habitats such as raptor nesting areas, high value wetlands, and deer and turkey wintering areas, and documented occupied habitat by Threatened, Endangered, and Sensitive species that are known to be sensitive to human disturbance.

Another reason the Forest Service must prepare an EIS is the length of the EA. The court in *Curry* ruled, "the size of the EA prepared for the Mortality II Project undermines defendants' decision not to prepare an EIS. The analysis in the EA covers 49 pages, and the EA includes 349 pages of appendices."[19]

The South Branch Kinzua Creek EA analysis covers 157 pages. While there is only one appendix in this EA totaling 17 pages, a 157-page analysis in an EA certainly indicates the need for an EIS. Indeed, in *Curry* the court claimed: "the magnitude of the instant proposals to extend road and conduct logging operations, as set forth in an EA totaling over 65 pages, undermines defendants' contention that the proposals are not significant."[20]

All of these factors indicate, as the *Curry* court ruled in Mortality II, that the Forest Service must prepare an EIS for South Branch Kinzua Creek project.

[16] *Id*. at 551
[17] *Id*. at 553.
[18] *Id*. at 552.
[19] *Id*. at 551-552.
[20] *Id*. at 552. (citing *National Audubon Soc'y v. Hoffman*, 917 F. Supp. 280, 287 (D.Vt.1995).

Forest Service Response *: Marienville District Ranger Rob Fallon (Deciding Officer for the SBKC EA) is charged with making the decision on whether an EIS is necessary or if a FONSI is sufficient for the project (See decision to be made – EA p. 17).*

FSH 1909.15 Chapter 10, Section 17(pgs. 22 and 23) - ***Determine Type of Environmental Document Needed*** *gives the following direction on when to prepare an EIS, "The significance of environmental effects of a proposed action determines whether an environmental impact statement (EIS) (sec. 05) must be prepared."*

Please refer to the Decision Notice and Finding of No Significant Impact (page 4) for an explanation of the decision and why an EIS is not needed for this project.

Comment 2-A:
As regular visitors to the Allegheny National Forest, citizens, voters, and taxpayers, we oppose road construction and commercial logging activities in the South Branch Kinzua Creek watershed. South Branch Kinzua Creek is designated by Pennsylvania as a Wilderness Trout Stream. As such, South Branch Kinzua Creek is to be managed "based upon the provision of a wild trout fishing experience in a remote, natural and unspoiled

environment where man's disruptive activities are minimized." Road construction, logging, and herbicide spraying is contrary to the preservation and requirements of the Wilderness Trout Stream designation.

Forest Service Response: *Please see response to Comment # 1-I.*

Comment 2-B:
We love the forest and the many benefits it provides, from moderation of climate, to air and water quality protection to wildlife habitat and recreational opportunities.

Forest Service Response: *Comment noted.*

Comment 2-C:
There is no need to log 2,900 acres and spray herbicides on nearly 1,000 acres in order to manage this watershed. This kind of management reduces native forest diversity by promoting the naturally rare black cherry over all other forest uses and values. Additionally, road construction activities contribute to erosion and sedimentation of streams and further fragmentation of wildlife habitat and the Forest Service has failed to analyze total maximum daily loading in this Wilderness Trout Stream.

Forest Service Response: *The need for timber harvesting and herbicide application is stated under section 1.5.1 Need for Change on page 4 of the SBKC EA. The effects of timber harvesting and herbicide application are analyzed for various resources in Chapter 4 of the EA. The effects of road construction activities on streams are described on p. 92 of the EA. Fragmentation of wildlife habitat is analyzed on pp. 113-116 of the EA.*

The U.S. Environmental Protection Agency gives the following definition of Total Maximum Daily Load (TMDL):

"is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources.

Water quality standards are set by States, Territories, and Tribes. They identify the uses for each waterbody, for example, drinking water supply, contact recreation (swimming), and aquatic life support (fishing), and the scientific criteria to support that use.

A TMDL is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources. The calculation must include a margin of safety to ensure that the waterbody can be used for the purposes the State has designated. The calculation must also account for seasonal variation in water quality.

The Clean Water Act, section 303, establishes the water quality standards and TMDL programs." (US-EPA, 2008: http://www.epa.gov/owow/tmdl/intro.html)

Comment 2-D:
The Allegheny is being seriously degraded from road construction activities associated with private oil and gas development. The Forest Service must do two things. First, it needs to strictly regulate oil and gas drilling, including preparing environmental assessments with opportunities for public comment. Second, while the Forest Service

implements a new strategy to regulate oil and gas drilling, the Forest Service must off-set these impacts by reducing its impact on the forest. The first step would be to prohibit all new earth disturbance activities until the Forest Service has a clear process on how to manage the oil and gas situation. Quite simply, the Forest Service has no time for any other management concerns as even it stated recently in the revised Forest Plan that oil and gas drilling is the single greatest land use change threatening the Allegheny National Forest.

Forest Service Response*: This comment is beyond the scope of the SBKC project.*

Comment 2-E:
Please withdraw the South Branch Kinzua Creek project and implement a restoration strategy for the Allegheny National Forest as outlined by the Allegheny Defense Project's Allegheny Wild! proposal.

Forest Service Response*: Comment noted.*

Comment 3-A:
I am totally opposed to destroying the South Branch of Kinzua Creek and its watershed. As a fisherman, I enjoy these remote areas and I take the position that we need to preserve what little wilderness settings remain in Pa. Wilderness areas are scarce not only in Pa. but also in the rest of the East and for that matter - the rest of the Nation. I do hope that the South Branch is spared from destruction.

Forest Service Response*: Comment noted.*

Comment 4-A:
I oppose the logging and spraying of a wilderness area.

Forest Service Response*: Comment noted. We are not proposing logging or spraying herbicide within a Wilderness Area as part of this project. There are no Wilderness Areas (Management Area 5.1) or Wilderness Study Areas (Management Area 5.2) located within the SBKC project area.*

Comment 5-A:
every single word in the letter below is exactly what i want to say about the awful policies being advocated in the nationally owned by taxpayer/citizens land of the forest service. i agree wholeheartedly with the below letter.

Forest Service Response*: Comment noted.*

Comment 6-A:
The Pennsylvania Fish and Boat Commission appreciates the opportunity to comment on the South Branch Kinzua Creek Environmental Assessment.

Forest Service Response*: Comment noted.*

Comment 6-B:

The US Forest Service has proposed to (Alternative 2):

• Create approximately 311 acres of early-successional habitat utilizing even-aged management in Management Area 3.0.
• Perform associated reforestation activities to develop adequate advanced seedling regeneration to ensure that the stands become fully stocked.
• Perform wildlife habitat enhancements on approximately 130 acres of National Forest land.
• Control and eliminate the spread of non-native invasive plant species (NNIS) on approximately 15 acres of National Forest land.
• Construct approximately 2.8 miles of roads, which includes using approximately 2.7 miles of existing road corridors, decommission approximately 2.1 miles of unneeded roads, and accomplish maintenance on approximately 14.4 miles of forest roads including applying limestone surfacing to approximately 0.7 miles of road. This would involve expanding three existing stone pits (6 acres), developing one new stone pit (3 acres), and reclaiming 16 acres of stone pits

Forest Service Response*: Comment noted.*

Comment 6-C:

In the EA, the Forest Service has identified the South Branch of Kinzua Creek and specifically and in addition to South Branch Kinzua Creek, Hubert Run, Windfall Run and Glad Run as sub watersheds that may be impacted by the above proposed actions.

The PFBC manages the South Branch Kinzua Creek, Windfall Run, and Glad Run as naturally reproducing wild trout streams. These streams support wild trout from the headwaters to the mouth of each stream. The Forest Service has also identified PFBC Wilderness Trout Management on South Branch Kinzua Creek from the headwaters to the confluence with Hubert Run.

The PFBC defines wilderness trout stream management as:

> *Wilderness trout stream management is based upon the provision of a wild trout fishing experience in a remote, natural and unspoiled environment where man's disruptive activities are minimized. Established in 1969, this option was designed to protect and promote native (brook trout) fisheries, the ecological requirements necessary for natural reproduction of trout and wilderness aesthetics. The superior quality of these watersheds is considered an important part of the overall angling experience on wilderness trout streams. Therefore, all stream sections included in this program qualify for the Exceptional Value (EV) special protected water use classification, which represents the highest protection status provided by the Department of Environmental Protection (DEP).*

Forest Service Response*: Comment noted.*

Comment 6-D:

The PFBC supports the Forest Service's approach to minimize impacts to the wilderness Trout Management section the South Branch Kinzua Creek watershed to protect the integrity of the scope and intent of wilderness trout stream management. The PFBC

concurs with the Forest Service's proposal to manage FR460 and FR461 as seasonally restricted access roads and to block illegal ATV activity in the watershed.

Forest Service Response*: Comment noted.*

Comment 6-E:

The PFBC offers two additional comments that we believe are important to achieve adequate protection of water quality and the fish communities supported by cold water streams that may be affected by forest management proposed by the Forest Service.

It appears that the proposal will result in disturbance to upper reaches of the watershed which have poor soils derived from Pottsville formation geology. This formation contains acid bearing sandstone and shale which may cause adverse impacts to aquatic resources. The PFBC questions the use of this acid bearing material for road use and recommends limestone for all roads within the proposed treatment areas. The use of native sandstone should be precluded to avoid negative impacts to water quality and associated fish communities.

Forest Service Response*: The ANF guidelines include surfacing roads where runoff is a concern (stream crossings and roads within 300' of a stream). We primarily target those areas for limestone surfacing and we do not place limestone surfacing on all roads or road sections since it would be cost prohibitive for very little, if any, benefit to water resources.*

In addition, the guideline on p. 75 of the ANF Land and Resource Management Plan states:

- *"Where new or existing permanent roads are within 300 feet of perennial and intermittent streams, a high quality, non-erosive surfacing material, binding material, or other suitable material should be used to control sediment delivery."*

The 300 foot guideline came about from numerous surveys conducted in the 1990's to assess the effectiveness of filter strips between dirt and gravel roads and streams within the ANF. The guideline then developed from this does not specifically state limestone, but is what we currently use in these cases instead of sandstone.

Comment 6-F:

Lastly, the PFBC is concerned that the proposed actions will have a negative effect on water temperature in the coldwater resources in the area proposed for logging. The PFBC suggests that a 200 foot forested riparian buffer be maintained for all coldwater streams that support trout populations. This buffer should be extended to all perennial tributaries. Forested riparian buffers will maintain critical riparian stream corridors and maintain and protect coldwater wild trout streams.

Forest Service Response*: The LRMP includes a 100 foot buffer on all perennial streams (see Table 24 of the LRMP), and includes a guideline with a 200' buffer on specially designated streams. Water protection guidelines in the Forest Plan were developed from and are consistent with State Best Management Practices and were incorporated into the*

Forest Plan. These buffer distances were developed from DCNR's Forest Management Plan of 2003.

The guideline on p. 75 of the LRMP states:

- *"The area within 200 feet of Wilderness Trout Streams, Remote Trout Streams, and Class A Trout Streams should be restricted from vegetation management unless there is a need to allow activities for the maintenance or improvement of riparian health, such as the treatment of invasive species."*

Comment 6-G:

The PFBC appreciates the opportunity to comment on the EA and we look forward to working with the Forest Service to protect, conserve, and maintain all resources of the Allegheny National Forest.

***Forest Service Response**: Comment noted.*

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